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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,777	08/15/2002	Geoffrey Cooling	2245/106	6357

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BROMBERG & SUNSTEIN LLP  
125 SUMMER STREET  
BOSTON, MA 02110-1618

EXAMINER

SMITH, JULIE KNECHT

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 03/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/030,777

Applicant(s)

COOLING ET AL.

Examiner

Julie K Smith

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 27-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 August 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/26/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 28 is objected to because of the following informalities: In line 7, the applicant must either claim one or more than one arm. The recitation “arm(s)” indicates that both scenarios are being claimed. Appropriate correction is required.

3. Claim 43 is objected to because of the following informalities: Claim 43 depends from itself. For purposes of the instant office action, claim 43 is being treated as being dependent upon claim 42. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3682

5. Claims 27-34 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis et al. (4,976,166). Davis et al. discloses a control pedal assembly including a frictional hysteresis providing part comprising a first friction surface (62) mechanically linked to a control pedal arm (10) and having an arcuate surface centered on an axis of rotation of the pedal arm, a second friction surface (64) mechanically linked to a mounting bracket of the control pedal arm also having an arcuate surface, a pivotally mounted friction surface member (50) carrying one of the friction surfaces and a resilient member (58) pivotally biasing the friction surface member about an axis and also biasing the pedal into a rest position, so as to resiliently bias the first and second friction surfaces into mutual contact over a contact region, wherein the friction surfaces are shaped so that the area of the contact region increases as the pedal is depressed and decreases as the pedal is released. Davis et al. further discloses a pivotally mounted cross piece (30), at least one arm piece (see fig. 1) carrying a friction surface and extending in a direction perpendicular to the plane of the cross piece, the friction surface member being pivotally mounted about an axis perpendicular to the direction of the arm.

The method recited in claim 45 is inherent in Davis et al.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3682

7. Claims 35-44 and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. as applied to claims 27-34 and 45 above, and further in view of Kwolek et al. (3,856,120). Davis et al. is silent as to the composition of the friction surfaces of the pedal assembly, however, Kwolek et al. teaches frictional surfaces comprising either a glass-filled nylon or a rubber and talc copolymer comprising 20% by weight of talc.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the frictional surfaces of Davis et al. with the teachings of Kwolek et al. so as to improve the frictional resistance and durability of the frictional surfaces.

The method recited in claims 42-44 is inherent in the reference combination set forth above.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5,133,225 to Lundberg et al.

5,868,040 to Papenhagen et al.

6,070,490 to Aschoff et al.

6,276,229 to Gohring et al.

6,289,762 to Silva

5,835,841 to Yamada et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Smith whose telephone number is 703-305-3948. The examiner can normally be reached on Monday-Friday, 8-5:30, (Every other Friday off).

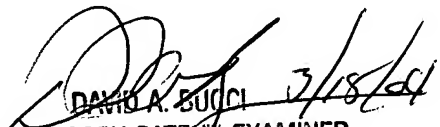
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JKS  
Jks

March 16, 2004

  
DAVID A. BUCCI 3/18/04  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600